Single Bench

(2) (4)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)

WRIT PETITION (S) NO. 6085 OF 2006

PETITIONER : Dev Kumar Kashyap Son of Shri Dilaram Kashyap, aged about 44 years, Assistant Teacher, Presently posted at Govt. Primary School, Sasha, Block Pamgarh, District Janjgir-Champa (C.G.).

P.R. No. 612/06
Presented by Shri P.P. Sahu
dated 4-11-06

VERSUS

RESPONDENTS : 1. State of Chhattisgarh, Through: The Secretary, Department of School Education, D. K. S. Bhawan, Raipur (C.G.).

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2. The District Education Officer, Janjgir-Champa (C.G.).

3. The Block Education Officer, Pamgarh, District Janjgir-Champa (C.G.).

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA, 1950 FOR ISSUANCE OF WRIT IN THE NATURE OF CERTIORARI, MANDAMUS ETC. AND FOR APPROPRIATE ORDER/ORDERS, DIRECTION/DIRECTIONS.

(21)

HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION (S.) NO.6084 OF 2006

Petitioner : Krishna Lal Yadav

Versus

Respondents : State of Chhattisgarh and others

WRIT PETITION (S.) NO.6085 OF 2006

Petitioner : Dev Kumar Kashyap

Versus

Respondents : State of Chhattisgarh and others

Present : Mr. P.P.Sahu, counsel for the petitioners in both the petitions.
Mr. Ajay Dwivedi, Panel Lawyer for the respondents/ State in both the petitions.

ORDER
(Passed on 7th of November, 2006)

The petitioners are working as Assistant Teacher in Government Schools. In the course of their service as Assistant

Teacher, the petitioners have obtained B.Ed./B.T.I. Certificates at their own expenses before 1-3-1999.

2. Writ Petitions (S.) No.6084 of 2006 and 6085 of 2006 are being disposed of by this common order as the facts and question of law involved in these petitions are common.

3. According to learned counsel for the petitioners, the petitioners are entitled to two advance increments in view of the decision of this Court in the case of *Yashwant Kumar Bharadwaj vs. Municipal Corporation, Durg and another*[1], wherein it has been held that the Teachers, having obtained B.Ed., M.Ed., B.T.I. Certificates, at their own expenses, are covered by the circular dated 24-12-1998 issued by the State Government of Madhya Pradesh.

4. Further, in the matter of *Smt. Manorama Shrivastava vs. State of M.P. and others*[2], the Madhya Pradesh Administrative Tribunal, Gwalior Bench, while considering the circular dated 1-3-1999, wherein it is provided that the Assistant Teachers, who have acquired B.Ed. Degree at their own cost between 23-10-1964 and 7-5-1973 shall be entitled to two advance increments, relied on decision in the case of *Rakesh Kumar Shrivastava vs. State of M.P. and others* passed in Original Application No.1632 of 1999, decided on 12-10-1999, wherein it is observed that the circular dated 1-3-1999 cannot be made applicable retrospectively. Thus, a Teacher, may be Assistant Teacher, who has obtained B.Ed. Degree before 1-3-1999 is entitled to two advance increments.

(23)

5. It is pointed out by learned counsel appearing for the petitioners that the then State of Madhya Pradesh had filed a Special Leave Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed Special Leave Petition No.1999 of 2000 filed against the order of the Tribunal. Therefore, the direction to the effect that the circular dated 1-3-1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers, who have obtained B.Ed./B.T.I. Certificates before 1-3-1999. It is further substantiated by a circular dated 17-10-2003 issued by the present State of Madhya Pradesh, wherein the circular clearly states about the decision of the Hon'ble Supreme Court.

6. Learned counsel for the petitioners further submits that the facts and question of law involved in the present cases are squarely covered by the decision of this Court in the case of *Yashwant Kumar Bharadwaj* (Supra), to which learned counsel appearing for the respondents/State fairly concedes and agrees with the averments made by learned counsel appearing for the petitioners.

7. Accordingly, the writ petitions are allowed in terms of the decision of this Court in the matter of *Yashwant Kumar Bharadwaj* (Supra), subject to verification of the fact as to whether the petitioners have acquired B.Ed. Certificate at their own expenses as per the circulars dated 24-12-1998 and 1-3-1999 and further whether they have been paid two advance increments or not. No order as to costs.

(29)

8. A copy of this order be placed on the record of the connected writ petition.

Sd/-
Satish K.Agnihotri
Judge

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1 2006 (II) MPJR-CG 96
2 2000 (1) M.P.L.S.R. 136

Gopal